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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,971	07/28/2003	Isaac Dyck	85291-102 ADB	4085

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EXAMINER	
LOWE, MICHAEL S	
ART UNIT	**PAPER NUMBER**
3652	

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/627,971	DYCK, ISAAC	
	Examiner	Art Unit	
	M. Scott Lowe	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 June 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/20/05 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19,20 are rejected under 35 U.S.C. 102(b) as being anticipated by Citrowske (US 6,179,546).

Re claim 19, Citrowske teaches a wheelchair lift apparatus for attachment to an automobile A comprising:

a platform 80 on which the wheelchair is arranged to be received;

a platform support 20;

a frame (not numbered) comprising a hollow container within which the platform and platform support can be received;

the frame having thereon mounting members (not numbered) for attachment to an underside of the automobile arranged to support the frame on the vehicle with the frame horizontal and generally transverse to a length of the automobile;

the platform support 20 being movable while supported on the frame in a generally horizontal plane from a retracted transport position underneath the automobile to an extended operating position projecting outwardly to one side of the automobile;

the platform 80 being mounted on the lifting mechanism for movement relative to the platform support 20, with the platform support in the extended operating position, upwardly and downwardly between a lowered mounting position of the platform in which the wheelchair can enter onto the platform and a raised entry position in which the wheelchair can move from the platform onto a floor of the automobile;

wherein the frame comprises a hollow container within which the platform and platform support can be received in the hollow container being substantially closable with the platform support in the retracted transport position.

Re claim 20, Citrowske teaches a pivotal end plate 87 extending across the platform support at an end of the platform support opposite the automobile in the extended operating position, the pivotal end plate supported on the platform support for pivotal motion between a generally horizontal open position and a generally vertical closed position, wherein movement of the pivotal end plate to the closed position with the platform support in the retracted transport position closes the hollow container with the platform and platform support located therein.

Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Salas (US 4,134,504).

Re claim 19, Salas teaches a wheelchair lift apparatus for attachment to an automobile 21 comprising:

a platform 61 on which the wheelchair 27 is arranged to be received;

a platform support 39, etc. comprising two parallel arms each of which has a longitudinal channel therein;

a frame 31-34,etc. comprising a hollow container (figures 1-2) within which the platform and platform support can be received;

the frame having thereon mounting members (column 3, lines 35-36) for attachment to an underside of the automobile arranged to support the frame on the vehicle with the frame horizontal and generally transverse to a length of the automobile;

the platform support being movable while supported on the frame 31-34,etc., in a generally horizontal plane (figures 4,5) from a retracted transport position underneath the automobile to an extended operating position projecting outwardly to one side of the automobile;

the platform 61 being mounted on the lifting mechanisms for movement relative to the platform support, with the platform support in the extended operating position, upwardly and downwardly between a lowered mounting position of the platform in which the wheelchair can enter onto the platform and a raised entry position (figure 5) in which the wheelchair can move from the platform onto a floor of the automobile 21;

wherein the frame comprises a hollow container within which the platform and platform support can be received in the hollow container being substantially closable with the platform support in the retracted transport position.

Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Hall (US 4,058,228).

Re claim 19, Hall teaches a wheelchair lift apparatus for attachment to an automobile comprising:

a platform 22 on which the wheelchair is arranged to be received;

a platform support 30;

a frame (not numbered) comprising a hollow container within which the platform and platform support can be received;

the frame having thereon mounting members (not numbered) for attachment to an underside of the automobile arranged to support the frame on the vehicle with the frame horizontal and generally transverse to a length of the automobile;

the platform support 30 being movable while supported on the frame in a generally horizontal plane from a retracted transport position underneath the automobile to an extended operating position projecting outwardly to one side of the automobile;

the platform 22 being mounted on the lifting mechanism for movement relative to the platform support 30, with the platform support in the extended operating position, upwardly and downwardly between a lowered mounting position of the platform in which

the wheelchair can enter onto the platform and a raised entry position in which the wheelchair can move from the platform onto a floor of the automobile;

wherein the frame comprises a hollow container within which the platform and platform support can be received in the hollow container being substantially closable with the platform support in the retracted transport position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (US 4,058,228) in view of Citrowske (US 6,179,546).

Re claim 20, Hall teaches opening and closing but does not teach a pivotal end plate. Citrowske teaches a pivotal end plate 87, in order to prevent accidental unloading, extending across the platform support at an end of the platform support opposite the automobile in the extended operating position, the pivotal end plate supported on the platform support for pivotal motion between a generally horizontal open position and a generally vertical closed position, wherein movement of le pivotal end plate to the closed position with the platform support In the retracted transport position closes the hollow container with the platform and platform support located

therein. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Hall by the general teaching of Citrowske to have a pivotal end plate extending across the platform support at an end of the platform support opposite the automobile in the extended operating position, the pivotal end plate supported on the platform support for pivotal motion between a generally horizontal open position and a generally vertical closed position, wherein movement of le pivotal end plate to the closed position with the platform support In the retracted transport position closes the hollow container with the platform and platform support located therein in order to prevent accidental unloading.

Claims 21-26,28-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (US 4,058,228) in view of Salas (US 4,134,504) and Suzutec (JP08067330A).

Re claim 21, Hall teaches a wheelchair lift apparatus for attachment to an automobile comprising:

a platform 22 on which the wheelchair is arranged to be received;

a platform support (30,etc.);

a frame (not numbered);

the frame having thereon mounting members (not numbered) for attachment to an underside of the automobile arranged to support the frame on the automobile with the frame horizontal and generally transverse to a length of the vehicle;

the platform support (30,etc.) supported on the frame in a generally horizontal plane;

the platform 22 being carried on parallel levers 36,38 each of which has one end pivotally attached to the platform and the other end pivotally attached to the platform support, the platform thereby being mounted on the platform support for movement relative thereto, with the platform support in the extended operating position, upwardly and downwardly from a lowered mounting position of the platform in which a wheelchair can enter onto the platform to a raised entry position in which the wheelchair can move from the platform onto a floor of the automobile;

the movement of the platform relative to the platform support being effected by one or more elongate actuators 48 which are carried on the platform support and received so as to extend therealong in a plane generally parallel to the plane of the platform.

Hall does not teach the platform support being movable but Salas does teach the platform support being movable from a retracted transport position underneath the automobile to an extended operating position projecting outwardly to one side of the automobile. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Hall by the general teaching of Salas to have the platform support being movable from a retracted transport position underneath the automobile to an extended operating position projecting outwardly to one side of the automobile in order to expand its reach and to allow for a smaller device and/or vehicle. For primary use with wheelchairs as shown in Salas, the handrails are removed in the modification.

Hall teaches each actuator arranged to pull a chain portion which passes over an arc member 88,86 at a base of a respective one of the levers, thereby actuating the parallel levers and the platform carried thereon, the chain portion being attached at an end thereof opposite the actuator to the arc member 88,86 on a side of a pivot axis of the respective lever opposite the actuator. Hall does not teach the arc-member being arc-shaped, but Suzutec teaches it is well known to use a arc-shaped member (sector gear) 2 moved by a chain 3 turned by an actuator 21 to actuate a lever 16 in order to save cost. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Hall by the general teaching of Suzutec to use an equivalent arc-shaped member(s) instead of the arc members to save cost.

Re claim 22, Hall as already modified in claim 21 teaches the platform support 30 arranged such that it can slide into a hollow interior of the frame.

Re claim 23, Hall teaches the platform support and the frame generally rectangular in shape with front and rear edges parallel and at right angles to the length of the automobile.

Re claim 24, Hall teaches the platform having front and rear edges (not numbered) arranged at the front and rear edges of the platform support.

Re claim 25, Hall as already modified in claim 21 teaches the frame comprising a hollow container within which the platform and platform support can be received.

Re claim 26, Hall as already modified in claim 21 teaches the frame is substantially closeable with the platform and platform support received therein.

Re claim 28, Hall teaches the frame defines a depth on the automobile such that it is retained on the vehicle underneath the vehicle during travel and wherein the platform and platform support are contained within the depth of the frame.

Re claim 29, Hall as already modified in claim 21 teaches one or more actuators (48, etc.), extend along platform support parallel to the direction of sliding movement of the platform support.

Re claims 30,33, Hall teaches the actuators comprise cylinders (48, etc.).

Re claim 31, Hall as already modified in claim 21 teaches the frame includes a pair of parallel spaced rails extending at right angles to the length of the automobile and wherein the parallel arms 36,38 of the platform support are each arranged along a respective one of the rails and slidable therealong.

Re claim 32, Hall teaches the platform 22 carried on two pairs of parallel levers 36,38 with each pair arranged on a respective one of the arms.

Re claim 34, Hall teaches the platform 22 can be lowered to a height below that of the platform support 30 and raised to a height above the platform support 30.

Re claim 35, Hall teaches the platform 22 and platform support 30 are carried wholly by the frame so as to be cantilevered in use from the side of the automobile.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (US 4,058,228) in view of Salas (US 4,134,504) and Suzutec (JP08067330A) as applied in claim 21, and further in view of Citrowske (US 6,179,546).

Re claim 27, Hall teaches opening and closing but does not teach a pivotal end plate. Citrowske teaches a pivotal end plate 87, in order to prevent accidental unloading, extending across the platform support at an end of the platform support opposite the automobile in the extended operating position, the pivotal end plate supported on the platform support for pivotal motion between a generally horizontal open position and a generally vertical closed position, wherein movement of le pivotal end plate to the closed position with the platform support In the retracted transport position closes the hollow container with the platform and platform support located therein. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Hall by the general teaching of Citrowske to have a pivotal end plate extending across the platform support at an end of the platform support opposite the automobile in the extended operating position, the pivotal end plate supported on the platform support for pivotal motion between a generally horizontal open position and a generally vertical closed position, wherein movement of le pivotal end plate to the closed position with the platform support In the retracted transport position closes the hollow container with the platform and platform support located therein in order to prevent accidental unloading.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fretwell (US 5,556,250) teaches arc-shaped members.

Cohn (US 6,010,298) teaches arc-shaped members.

"Sector gear" document teaches arc-shaped members (sector gears) are well known.

Applicant's arguments with respect to claims 21-35 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's remaining arguments filed 12/20/05 have been fully considered but they are not persuasive.

Applicant argued that Citrowske and Salas are not closable. However, both Citrowske and Salas are closable as clearly shown in the figures. Applicant appears to be reading some unknown limitations into the claims that are not actually claimed. How Citrowske pivots does not change that the reference does close.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the unknown closed limitations) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argued that Hall does not teach the chains on a side and opposite the actuator. However, it is clear in figure 5 of hall that the chains are on a side and opposite the actuator. The modification of Hall even further removes any argument that this is taught as the equivalent arc-shaped member would also meet the claimed limitations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl

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